
**COMMISSION MEETING
THURSDAY, MAY 9, 2002
DRAFT MINUTES**

Chair Orr called the meeting to order at 1:30 p.m., at the WestCoast Grand Hotel at the Park located in Spokane. He welcomed the attendees and introduced members and staff present:

MEMBERS PRESENT: **COMMISSIONER GEORGE ORR, CHAIR;
COMMISSIONER CURTIS LUDWIG, VICE CHAIR;
COMMISSIONER LIZ McLAUGHLIN;
COMMISSIONER JANICE NIEMI;
COMMISSIONER ALAN PARKER;
SENATOR MARGARITA PRENTICE;
REPRESENTATIVE ALEX WOOD;
REPRESENTATIVE CHERYL PFLUG;**

OTHERS PRESENT: **RICK DAY, Executive Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
ROBERT BERG, Deputy Director, Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
CALLY CASS-HEALY, Assistant Director, Field Operations;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant**

1. DIRECTOR'S REPORT AND REVIEW OF AGENDA:

Director Day congratulated Representative Wood who was reappointed to the Commission's Ex Officio position. Director Day then reviewed the agenda for Thursday and Friday, and noted a request for continuance has been submitted in reference to the Free Spin Declaratory Order and a waiver/request for continuance received regarding the Petition for Review - Cascade Food Services, Inc. Both items will be scheduled for the June 2002 meeting with Commission concurrence.

Director Day reported on the following issues:

- The Governor appointed Tony Molica as the new Lottery Director. Mr. Molica comes from California and will commence his duties in June.
- Special Agent Patrick Griffee, from Renton, graduated from the Law Enforcement Academy at the top of his class academically and in performance.
- On April 24th, Director Day met with the special agent in charge of the FBI Office in this region, who presented the Commission with an \$11,000 forfeiture check. This case involved an individual who started an illegal bookmaking operation. The individual was charged and convicted, along with several other members who were participating in the illegal gambling operation. Director Day felt this type of incident underscored the importance of the Commission's efforts to continue their activities to both protect the public from that kind of influence, and from unlawful gambling operators. Director Day also noted this was an example of good cooperation between agencies.

Director Day provided the Director's Report, as follows:

- A) Agency Budget Reduction Planning: The agency has been implementing the decisions necessary in reaction to the legislative reduction or pending transfer of monies from the Commission's fund and the revenue shortfalls. He referred to a graph designed to give notification of how the agency responded to the necessary cuts. The first focus was how to accommodate the reductions while maintaining the Commission's regulatory activity. He underscored that gambling activities in 2001 increased to \$1.1 billion -- gambling activity is increasing, not decreasing. He emphasized that it is important for the Commission to continue to provide the service, availability, enforcement, and regulation in the field.

Staff focused first on the reductions that were necessary within the management ranks in the Olympia office. \$1.25 million in reductions was achieved. Former Director Ben Bishop had initiated some freezes and Director Day continued those reductions, initiated additional position freezes, and took advantage of some reorganizations that had already taken place. The Commission had already taken steps to react to budget shortfalls and revenue shortfalls before the State Legislature even began to address the issue. Then, as a result of the vote regarding the Problem Gambling Council contract, an additional \$150,000 in Fiscal Year 03 was recovered. Actions were taken to RIF (reductions in force) six positions within the agency, which saved \$425,000. Vacancy savings from field operations amounted to an additional \$113,000 in savings. This will require field operations to hold positions open at least long enough to assure that amount of revenue is achieved, but will not facilitate a reduction in actual agent positions. The cuts represent \$688,000, and when combined with the \$1.25 million, it represents a total very close to \$2 million. Director Day emphasized that the RIF decisions affected talented and experienced staff, all of who have elected to move in to alternate positions with the agency. He affirmed there are other smaller decisions that must be made to conserve dollars, however, actions relative to personnel are complete at this point.

Director Day intended to schedule discussions with OFM and the Legislature regarding their budget expectations. Staff will return in June with a detailed report of the budget recommendations for the next biennium and to address the whole reduction process in greater detail. **Commissioner Parker** noted there has been discussion on how to deal with OFM because they continue to be sending official communications to staff and the Commission, (essentially treating this organization as if it were a General Fund agency) regarding the management of future budget reductions. He suggested perhaps it would be appropriate for the Commissioners to adopt a resolution or take some action to request a meeting with Marty Brown, the Director of OFM, and the Commissioners, to discuss the Commissioners' concern about this continuing policy of not acknowledging the fundamental distinction between a General Fund agency and the Commission, and in terms of how any future budget reductions would severely restrict the Commission's ability to complete its mission. He asked Chair Orr for discussion about some initiative to nip in the bud what seems to be an on-going policy to ignore these distinctions. In terms of the timing, the Commission would meet in June, skip July, and if this question is not addressed now, several months could go by, which would make the situation become more difficult to clarify.

Senator Prentice agreed with the idea that addressing this issue sooner would be better than addressing it later. She stated that she and Representative Wood tried as best as they could in their Houses to make that distinction. Somehow, it is clear that the Commission's case hasn't been made. She believed there was probably a wider misunderstanding about what would happen and the damage that would happen. She agreed that the nonappropriated distinction hasn't been made recently. Senator Prentice believed the executive office was concerned about news reports that show that although state government was cutting positions, expenses had still gone up, and although the Commission is not financed out of the General Fund, our figures are counted in the total. She affirmed any of the Ex-Officio member/Legislators would be willing to accompany the staff to a meeting with OFM.

Commissioner Parker suggested asking staff to prepare a letter from the Chair of the Commission, which expresses the Commission's concern about what appears to be a continuation of treating the Commission inappropriately—as if it were a General Fund organization, and to continue to make plans for management of its budget on the mistaken premise that the Commission is a General Fund agency rather than an organization where the Commissioners have the responsibility to approve a budget and monitor the management of that budget, and then asking for a meeting at the next opportunity—which would be in June. **Commissioner Niemi** was opposed to that idea because it was too formal. She thought they should appoint a small representative group of the Commission—perhaps made up of the director, a commissioner, and an ex officio member—who would get together with the director of OFM informally.

Senator Prentice hoped that as time goes on, the licensee's would also help the Commission make the political point which is not generally recognized; that the licensees appreciate the tough enforcement because it's in the licensee's interest to keep this industry clean.

Chair Orr suggested directing the staff to contact OFM to ask for a meeting between now and the June Commission meeting to explain the Commission's concerns. **Commissioner Ludwig** hoped that after Mr. Brown heard their explanation one more time, he would agree the Commission is not a General Fund agency and may acknowledge that if the services are cut the Commission would also have to cut fees. **Director Day** affirmed that staff has initiated first contacts with OFM at the budget analyst level, to try to clarify our position, and that he had already sent an e-mail communication to Marty Brown, to establish a meeting. If a Commissioner and an Ex Officio, or a subcommittee of the Commission would be willing to accompany him, Director Day believed that would help substantially. That group could come back and report to the full Commission in June. **Representative Wood** agreed and also suggested dialing in on the Ways and Means and Appropriations Committees because OFM submits a suggested budget, but it's the Legislature who actually draws up the final product. If they decide at the last moment, as they did this time, not to listen, then all that time up front would be wasted. **Chair Orr** and **Commissioner Parker** volunteered to participate in the meeting with OFM.

Commissioner Parker stated that the good work management has done in rising to the challenge of balancing this budget should be recognized. He acknowledged that it was difficult and that it sounded like it's been done in a very professional manner, which reflects well on management. **Chair Orr** concurred and asked Director Day to relay to the staff that the Commissioners appreciated their professionalism in this issue. **Director Day** agreed staff reacted very professionally, and demonstrated the class that he believed they are noted for.

- B) Notice of Commission Action – Council on Problem Gambling Contract: **Director Day** reported that he had followed through, as instructed, giving notice to the Council on Problem Gambling to cancel the Commission's contract.
- C) Rules Team Policy: **Director Day** addressed the new policy relative to the establishment of a rules team responsible for coordinating the rulemaking process from this point forward. This is an effort to consolidate the rulemaking process and establish a team that is experienced in rules so there is a consistent spot for rules to come in. Staff inserted a summary report of the rules that are before the Commission for final action, what's pending in the study session, what's pending with the rules team, and what is under discussion and will be coming forward. The group has just started meeting. Next month, Assistant Director Cass-Healy will be making a presentation at the study session regarding the rules team and how will they function.
- D) Bingo Legislation – Schedule of Activities: **Director Day** noted the report provides a summary of the locations of meetings conducted around the state regarding the change in the Bingo laws to allow seven-day-a-week play, co-location and sharing of facilities. The concept was to hold the meetings for a brainstorm application, not to come with rules that the agency and staff had already developed, but to seek out what issues may be of concern with the licensees across the state. From his understanding, at this point there appears to be somewhat of a split of opinion dealing with the issue of the seven-day operation versus the sharing and co-location of facilities. There is an interest group of licensees that believe that those two things should go together toward final rule adoption, and should take place all at one time. There is also a group that supports moving the seven-day issue forward independent of the co-location and sharing issue because the seven-day issue is simpler. He said there is an underlying concern in this whole process to ensure this doesn't become a situation where we have a professional hollow operator, and the charities just cycle through it. Concern has been expressed by the administration that we want to be very cautious that doesn't take place because that would depart entirely from the charitable purposes. An actual draft of the rules has not been created and at this point, the agency and rule-team is leaning toward bringing this package together as one package. This is largely because those who would co-locate are probably struggling financially anyway. If they allow the stronger entities to move forward with the seven days, it might "do in" the others that might co-locate before they get a chance to do that. The team anticipates having a draft of the rules for discussion at the June session, and the rules could then be presented for filing in August. Because there is no meeting scheduled in September, they would be up for discussion in October, and could be approved in November and be effective in January of next year. That is fairly close to the normal process. There is a possibility they could be filed but they could also be adopted earlier if there was a wider agreement and discussion regarding those rules. The Commission

could direct an effective date within 30 days. There is some possibility to move the process faster depending largely on the agreement around the rules and the ability to discuss them. **Director Day** affirmed there are some complexities with the rules, and noted it may be more prudent to not be in a great big hurry to do something that would have a negative impact, that hadn't been intended by either the Legislature or the Commission.

- E) Monthly Update Reports: **Director Day** addressed the Administrative Case Update, and noted the Boys & Girls Club of Snohomish and Moose Lodge of Hoquiam agreed to surrender their licenses. A petition review will be heard on the Spokane ART and the Cascade Food Services. The YWCA in Yakima sent a letter requesting a variance based on their fourth quarter issues. At this point the agency has notified them that they are premature, but they have asked to discuss that issue further. In reference to Tribal matters, there has been no new Federal legislation. Relative to compact negotiations, Shoalwater Bay has forwarded a first draft of their requested Compact to the agency.
- F) News Articles: **Director Day** addressed the articles contained in the agenda packet: two articles pertain to Bingo, four relate to tribal gaming articles, there is one article from the International Gaming Wagering Business regarding taxing for revenues, and lastly, an article on Emerald Downs.

2. **New Licenses, Changes, and Tribal Certifications:**

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** to approve the new licenses, changes and tribal certifications listed on pages 1 through 18 of the agenda packet under License Approvals. *Vote taken; the motion carried with five aye votes.*

3. **Group V Qualification Review:**

Northern Lights Drum & Bugle Corps Association, Longview:

Derry Fries, Assistant Director, reported this organization was formed in 1989. Their purpose is to provide musical, educational and performance activities for the youth of southwest Washington and surrounding areas. Licensed since 1994, they have 113 active members and six board members and officers who conducted 12 meetings during the last fiscal year. They sponsor three different age group winter color guards, which perform and compete against other similar groups throughout the Pacific Northwest, and the west coast. They also sponsor several group competitions and a Northwest Regional Winter Guard Show. For the fiscal year ending December 31, 2000, the organization met all program services and supporting service requirements. The organization spent more than 60% of the organization's gambling proceeds toward providing program costs. Their supporting services expenses were less than 35 percent of functional expenses and the organization did not accumulate excessive reserves.

Based on staff's analysis of the financial statements, narrative and supplemental information provided with their application, the organization made progress toward accomplishing its stated purposes. Northern Lights Drum & Bugle Corps Association is qualified as a bona fide charitable nonprofit organization for purposes of conducting authorized gambling activities. Staff recommends this organization be approved as a charitable organization and be authorized to conduct gambling activities in the state of Washington. Mr. Fries introduced **Sheri Evald**, CEO, who was available for questions. There were no questions.

Commissioner McLaughlin made a motion seconded by **Commissioner Parker** to approve Northern Lights Drum & Bugle Corps Association located in Longview as a charitable organization, and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; the motion passed with five aye votes.*

4. **House Banked Card Room Report:**

Shoreline Gaming, Inc., dba Golden Nugget Casino, Shoreline:

Derry Fries, Assistant Director, reported Shoreline Gaming, Inc. is a commercial restaurant and lounge. This organization was formed as a privately held Washington corporation in April of 2001. Its headquarters are located in Renton. They have applied for a license to conduct five tables of house-banked card games. The applicant was formed as a privately held corporation in April 2001. Tim Iszley, President, owns 100 percent of the corporate stock. Mr. Iszley has a majority interest in the following house-banked facilities: Silver Dollar-Tacoma, Silver Dollar-Tukwila, Silver

Dollar-Sea Tac, and Silver Dollar-Mount Lake Terrace. Special Agents from the Financial Investigative Unit of the Gambling Commission conducted a criminal and personal history background checks on all substantial interest holders and initiated and completed a financial statement on both the corporation and the personal finances of Mr. Iszley. No disqualifying information was found. Special Agents completed an onsite preoperational review and evaluation (PORE) in accordance with the rules of the Commission on March 27, 2002. The applicant was found to be in compliance with the rules of the Commission. Based upon the licensing investigation and the onsite PORE, staff recommended this organization be licensed as a house-banked public card room and be authorized to operate up to five tables. **Mr. Tim Iszley** was introduced and was available for questions.

Commissioner McLaughlin asked if all fees and licenses were paid. **Mr. Iszley** affirmed.

Commissioner Ludwig made a motion seconded by **Commissioner Parker** to approve the house-banked license for Shoreline Gambling, Inc., dba Golden Nugget Casino, located in Shoreline. *Vote taken; the motion passed with five aye votes.*

Mr. Fries reported on the house-banked public card room statistics: there are currently 71 licensed establishments. There are now nine pending applications for house-banked card rooms. He has had an indication that there are two more that want to come forward, but they haven't submitted their application. As of today, 83 applications have been processed. There were no questions.

Chair Orr called for a recess at 2:40 p.m., and recalled the public meeting 3:00 p.m.

5. Free Spin / Bullseye Distributing, LLC Declaratory Order – Request for Continuance:

Michael Lufkin, Assistant Attorney General, representing staff, was present via telephone conference call.

Deputy Director Ed Fleisher said this matter was before the Commission in March and it was decided to set the matter over to the May meeting. Since then, staff, through their attorney, has been working with the Petitioner to get an exact description of the system. Staff continues to work through the process of obtaining and evaluating documents and attempting to come to an agreement with the Petitioner on stipulated facts. Mr. Fleisher advised that under the Administrative Procedures Act (APA), the Commission may extend the time limits for good cause. Staff has submitted a proposed Order for the Commission to extend this matter to the June 2002 Commission meeting.

Mark Wheeler, Attorney for Petitioner, reported that his firm represents Bullseye Distributing, LLC's interest in this matter. He said that on May 1, 2002, Assistant Attorney General Mike Lufkin filed a motion for a continuance of this matter to the June meeting. Currently, they do not oppose that motion and join in the request for a continuance.

Jerry Ackerman, Assistant Attorney General, informed the Chair that a vote of the Commission would be required to decide whether or not to continue this matter for good cause. The APA dictates that a Petition for Declaratory Order be ruled upon within 90 days of the filing of the Petition unless the adjudicative body—in this case the Commission—decides to extend it for good cause. This is an unopposed Motion for a Continuance, so it is a motion that finds good cause for the continuance and continues the matter to a date certain time, scheduled for the June 2002 Commission Meeting.

Commissioner Niemi said she could propose such a motion, however, for the record, it should be clear that the problems for the initial continuance and the problems for the continuance at this time, is that there are some questions that have not been answered by the Petitioner. She emphasized that the Commission needed more information, which is why the Commission is asking for a continuance. Of course, if there were more problems, it would be good cause either to continue the matter, or just deny it, if the information doesn't come in appropriately. **Mr. Wheeler** responded that it is his understanding that the motion currently before the Commissioners is basically for a motion for clarification of issues. His firm has submitted information appropriate with the requests that were demanded. He affirmed that he is trying to work with Commission staff to make sure that the issues are as clear as possible, so when this issue does come up for review, that there are no questions left. Commissioner Niemi said it is important to enter into the record that the beginning of one sentence which is "staff believes that certain factual questions remain." She emphasized that isn't an interpretation; they're factual questions regarding the Free Spin vending machine that are essential for staff to offer recommendations to the Commission.

Commissioner Niemi made a motion seconded by Commissioner Parker to continue the matter until June 2002, based upon the issues that were raised in the Motion to Continue.

Mr. Wheeler stated he had no objection. **Chair Orr** called for other comments. There were none. *Vote taken; the motion carried unanimously.*

6. Other Comments:

Frank Miller, Attorney, and President of the State Council on Problem Gambling addressed the Commissioners. He recalled for the audience, that he was also a former director for the Commission and served in that capacity for seven years. He affirmed that he was the director who initiated the contract with the State Council on Problem Gambling. His presence today was to share his concerns and to talk about future ideas for keeping the Commission a pivotal player in this important arena. He pointed out that the Commission doesn't fund the Council; the Commission had a contract with the Council, and that money was used as a partial source of funding. He emphasized that he was not present to argue the law. He affirmed he was aware the Commission had a legal opinion that the contract was contrary to law, and that there was no authority for the contract, and that it was unconstitutional. However, he disagreed with the conclusion, because the contract with the Council had been valid for 10 years, and everyone thought it was legal.

Mr. Miller noted the Council works tirelessly at trying to mitigate the problem of problem gambling, which is certainly a problem associated with this industry. They've been successful. He pointed out that in the three studies over the last nine years, problem gambling has remained level in Washington State. That is unheard of, given the increase in gambling in this state. It shows the work and the effectiveness of the Council, the Commission, the Lottery Commission, and the information that's been put out. Mr. Miller acknowledged that it was important to talk about this contract to see if there's a way to save something for the future. The real question is what can be done to preserve this relationship. What was initially a legal issue is now a policy and a budgetary issue.

Mr. Miller addressed a Bingo bill that passed last session that gave nonprofit charities seven days of operations as opposed to three. He advised that there was a cautionary statement that was put in the Gambling Act, RCW 9.46.070(1) - "Caution. Participation in gambling activity may result in pathological gambling, behavior causing emotional and financial harm. For help call 1-800-547-6133." That number is the Washington State Council on Problem Gambling Hotline. RCW 9.46.071 was put into effect in 1994. The Legislature recognized there was a need to spend money for services for problem gambling and they said, as a minimum, they would put out brochures, but they also referenced the help line. Mr. Miller suggested that now that we have a statute that also has the help line number in the statute, maybe the legal objections that were raised by counsel last month had to do with the scope of the prior contract. In fact, the contract went beyond merely help line assistance and information signs that went to education awareness training. He further suggested that perhaps there is a way that if the contract or the relationship were narrowed, the contract could pass legal muster. He asked if the Commission, as a matter of policy, wished to continue the relationship, and if the Commission was open to a meeting to propose solutions involving a narrower scope relationship that would allow some help on the issue of funding for the help line. If so, he welcomed the opportunity to meet with Commission staff to try and find some limited compromise, in a limited role, but one that would still have a vital, important role to play with the State Council on Problem Gambling.

Jerry Ackerman addressed Mr. Miller's request for an opportunity to sit down with Director Day and/or appropriate members of his staff and talk about making some sort of proposal to the Commission for its consideration at a later meeting. He affirmed Mr. Miller has clearly identified the Council's strongest argument for authority to support some portion of the contract -- the portion that dealt with the hotline. The two statutes mentioned clearly contemplate that there will be a hotline. Certainly, the agency doesn't run one, and Mr. Ackerman reserved any legal advice to the Commission as to whether or not that would work. At this point, the Council is simply asking for an opportunity to have a discussion to explore possibilities and then to make a proposal to the Commission at a future date. Mr. Ackerman acknowledged this is a policy call for the Commission, and he saw no legal reason that that couldn't take place.

Representative Wood reported that when he first arrived at the Legislature about five years ago, the first bill he prime sponsored was working with the Council to try to get direct state aid. They have been fighting that for five years. This year, they decided to take the next step because treatment is also where they want to go. With the Deaconess Hospital in Spokane taking the lead, and some of the privates helping out with donations, he prime sponsored a bill this year to get

half a million dollars for treatment. It ended up as an amendment with the Big Game bill that eventually passed.

Representative Wood felt that the timing of this was problematic in his opinion—when they finally make a breakthrough on the state level to get state funds going into the treatment of problem gambling, to be pulling back at this level, sends a mixed message. He hoped there was some compromise available. He affirmed the budgetary problem is a huge driver, and maybe in more normal times it would be simpler to find a compromise. He noted that we often get hints from the Supreme Court or from the Attorney General's Office that this technically is not doable now, but maybe with some adjustments, it could be doable. **Commissioner McLaughlin** commented that the Commission would need some time to digest what has been said and perhaps they should direct staff to visit the issue. **Mr. Miller** thanked the Commission.

Jerry Ackerman said the only need for a motion would be if the Commission wanted to direct Director Day and staff not to talk about this; otherwise, Mr. Miller would be free to raise this issue with the staff at any point in time.

Commissioner Ludwig pointed out that some, if not all of the Commissioners, were really saddened by the action they took. They were not pleased with what they felt they had to do. He too hoped there would be some way to change the situation -- perhaps through some new legislative/statutory authority. There were no further comments.

7. **Petition for Review:**

Spokane Athletic Round Table (ART), Spokane:

Hugh Evans, Attorney with Evans, Craven and Lackie, representing Spokane Athletic Roundtable and Neil Gorrell representing the Attorney General's Office presented their cases. (Certified transcript on file) At the conclusion, **Chair Orr** called for an executive session and recessed the public meeting at 3:50 p.m. He recalled the meeting at 4:00 p.m.

Commissioner McLaughlin made a motion seconded by **Commissioner Niemi** to uphold the decision rendered by the Administrative Law Judge. *Vote taken; the motion passed with five aye votes.* **Mr. Ackerman** noted for the record that he would prepare an Order memorializing the Commission's decision and submit it for signature.

8. **Petition for Review:**

Cascade Food Services, Inc., Shoreline:

Attorney Bob Tull, on behalf of his client submitted a request to waive the requirement, pursuant to WAC 230-40-560, that the Commission review this matter within 120 days of filing of the petition for review, and requested the matter be heard at the June 2002 Commission Meeting. The Commission concurred.

9. **Executive Session To Discuss Pending Investigations, Tribal Negotiations & Litigation:**

With no further business, Chair Orr adjourned the meeting until 9:30 a.m., May 10, 2002.

**COMMISSION MEETING
FRIDAY, MAY 10, 2002
DRAFT MINUTES**

Chair Orr called the meeting to order at 9:30 p.m., at the WestCoast Grand Hotel at the Park located in Spokane and welcomed the attendees.

MEMBERS PRESENT:

**COMMISSIONER GEORGE ORR, CHAIR;
COMMISSIONER CURTIS LUDWIG, VICE CHAIR;
COMMISSIONER LIZ McLAUGHLIN;
COMMISSIONER ALAN PARKER;
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ROBERT BERG, Deputy Director, Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
CALLY CASS-HEALY, Assistant Director, Field Operations;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant**

10. MINUTES – April 11 and 12, 2002:

Commissioner McLaughlin made a motion seconded by Commissioner Ludwig to approve the Regular Meeting Minutes of April 11 and 12, 2002, as presented. *Vote taken; the motion passed with five votes.*

11. Vote on Amended Tribal/State Compact:

Tulalip Tribes of Washington:

Rick Day, Director, summarized the amendments on the Tulalip and Puyallup Compacts. Informational packets from both tribes had been provided for reference. He noted the compact amendments before the Commissioners were similar to the Muckleshoot Compact previously considered. The primary issues involved an increase in authorization from one to two facilities, to increase in table/gaming stations—to 125 total, to be split between the two facilities. Hours would increase from 140 hours to 156 hours. There are two housekeeping sections dealing with the breakdown between who does what between the Tribe and the TGA. The amendments do not change any of the language in the agreements, it entails streamlining and housekeeping of the negotiation portions of the agreement that simply allows either party to ask for negotiations and to negotiate in good faith. **Chair Orr** called for questions. There were none.

Stan Jones, Vice President, Tulalip Tribe, introduced Jon McCoy, the Tribe's government-to-government relations attorney. He asked Mr. McCoy to address the issue of the casino. **Mr. McCoy** pointed out that the Tribe had provided

the Commission with a packet of the information from the county law enforcement, chamber of commerce, and a couple of the charities. He reported the Tribe has been working very hard to expand their economic development activities, which is what IGRA was designed for. They hope to have their new facility open by the end of March of 2003. **Chair Orr** called for questions. There were none.

Commission McLaughlin made a motion seconded by **Senator Prentice** to adopt the amendments to the Tribal State Compact for the Tulalip Tribe as submitted.

Commissioner McLaughlin pointed out that she knew from living in Snohomish County that the Tulalip's have lived up to every agreement they have made. **Chair Orr** explained that the Ex Officios members may vote on this motion. There were no further comments. *Vote taken; the motion passed unanimously.*

12. Vote on Amended Tribal/State Compact:

Puyallup Indian Tribe:

Herman Dillon, Chairman of the Puyallup Tribe, introduced tribal members, Marguerite Edwards, Council Member; Lena Landry, Adviser on the Gaming Commission; and Vernetta Miller, Gaming Director. He introduced Frank Wright, General Manager, who in turn called for community supporters to come forward for their presentations.

Bill Baarsma, Mayor of Tacoma, said the city strongly supports the Tribe's proposed amendment to their Compact. He said that in 1996 when the Emerald Queen opened up, there was concern in the community as to the impact it might have on public safety. In fact, it had very little measurable impact. To the contrary, it has been a very positive addition to the Tacoma community. It is one of the best-managed operations in the city. Mayor Baarsma noted that Frank Wright has natural leadership and management skills that put this operation in the forefront. The Tribe has been a collaborator with not only the City, but, the Port of Tacoma and Pierce County. The Chair of the County Council, Harold Moss, would have been here lending his support, but his plane was unable to take off due to weather conditions. He said this particular proposal is a precursor of what Tacoma residents consider an extraordinary economic development project that the Tribe is developing in concert with the City, the County and the Port. It focuses on an area of need in Tacoma—the Eastside, which is a low-income area, something that is at the top of city leaders' list in terms of economic development. The Tribe will be working with the leaders in a collaborative fashion to move the city of Tacoma forward. He said it was his pleasure to offer his support as the Mayor of the City. He introduced City Council Member, Doug Miller.

Doug Miller said he was proud to represent his role as a member of the Board of Directors of the Tacoma Regional Convention and Visitors Bureau, and as a member of the community with a business, and to represent nonprofit organizations that have benefited tremendously from the generosity and the support the Puyallup Tribe has provided to their community. He stated the Puyallup Tribe has an excellent working relationship with their community and its neighbors. This relationship is built on a foundation of mutual respect and commitment to the betterment of their shared community. They have been kept well informed of the Tribe's plans and their vision for the future -- it's a very good fit for developing the tourism industry, and it is consistent with their focus on economic development and the expansion of their employment base. The Puyallup Tribe's plans for the casino operation and hotel facilities will be a good fit for expanding their focus on attracting overnight visitors and getting them to spend time discovering the benefits of staying in the region adjacent to the city of Tacoma and their facility. As a representative of nonprofit organizations, Council Member Miller noted that there were many things the Puyallup Tribe's support made happen. Specifically, they built one of the most well respected and internationally renowned Fourth of July festival events in Tacoma. Much of that is attributed to the support they have been able to receive financially from the Puyallup Tribe. He urged the Commission to support this amendment and help them continue to build on a very beneficial partnership.

Mayor Baarsma introduced City Council Member, Bill Evans. **Council Member Evans** said it was a privilege to be at the Commission meeting. He said many tribal members live in the area that he represents, and he has always been fascinated by the history of the Puyallup Tribe. He shared some historical background. The people who inhabited the Puyallup/Tacoma area were very generous and kind to the travelers, they let them stay on their land, hunt on their land and eat berries and shellfish. Eventually, it was the travelers who said, 'this is the land of the very generous and kind people. This is the land of the Puyallup.' To fast track to this moment, he believed these people are still the most kind and generous, and still live up to their name. Tacoma has benefited tremendously from their generosity, and, like his fellow council members and the mayor, he asked the Commission to pass this amendment in order to help the Puyallup Tribe continue to live up to their name: the generous and kind people.

Andrew McAfee, Fire Chief, Riverside Fire and Rescue, said his department received a fire truck that was basically purchased from casino impact fees. This was just the beginning of a lot of generous things the Puyallup's have done-- they also established a fire service memorial. He affirmed the Puyallup Nation has been very generous to the fire service. He noted that it was said earlier that the casino had not made an impact on public safety. He agreed and disagreed -- they have made a great impact on public safety -- they have made Puyallup and the area around their nation a safer place. Chief McAfee asked the Commission to support the Compact amendment.

Stan Naccarato, Consultant, said he has been a friend of the Tribe for 56 years. He said he has raised a lot of money and he has 288 wall plaques documenting that the Puyallup's have given money for one thing or another. He cited contributions to the Fallen Firefighters Memorial Park, the Boys and Girls Club, The Council on Problem Gambling, the fire engine for Riverside Fire Department, Metro Parks, the Fourth of July Celebration, the Daffodil Parade, to United Way, and numerous small donations. He said he was very proud to be a part of this because the Puyallup's are decent hardworking people. Mr. Naccarato commented that the Puyallup's have become a wonderful part of everything that is happening in Tacoma. There have been numerous contributions made through the 2 percent fund and charity funds. He reiterated that the Tribal Council has spent over \$1 million in excess of what was required by the 2 percent community requirement. He encouraged a favorable vote.

Senator Prentice made a motion seconded by **Representative Pflug** to recommend to the Governor approval of the Puyallup Compact. *Vote taken; the motion passed unanimously.*

Chair Orr called for a short recess in order for the Commissioners to personally thank the tribal members in attendance; he called the meeting back to order 15-minutes later.

RULES UP FOR FINAL ACTION

13. Promotions for Gambling Activities:

WAC 230-12-045, WAC 230-12-050, WAC 230-02-145; WAC 230-20-111, WAC 230-20-125, WAC 230-20-230, WAC 230-40-800, and WAC 230-40-897:

Bob Berg, Deputy Director, reported that there are eight rules in the package: one is new, two are amendments, and five are repealers. As referenced in the rules package, the three activities that licensees may engage in to promote their business includes gifts. Gifts are items that licensees give away to their customers and are not directly connected to gambling activities. Secondly, gambling promotions are directly connected with the gambling activity and the promotion may offer cash, merchandise or free or discounted coupons to encourage a player to begin or continue to play in a gambling activity. The prize or end result from the gambling promotion cannot be an additional opportunity to gamble in a Commission-regulated activity. Third, promotional contests of chance, which are allowed under RCW 9.46.0356, are designed as a way for businesses to promote their goods or services to the community. There must always be a way for a person to enter a promotional contest of chance at no cost.

WAC 230-12-045 sets forth parameters the licensees must follow when offering promotions in conjunction with gambling activities. Gambling Commission staff will no longer need to review and approve individual promotions. Gambling promotions will be limited only to persons playing in a licensed gambling activity and each promotional item cannot exceed \$500 in actual costs. Under that rule, promotions cannot be combined with promotional contests of chance (PCOCs) in any way. There were some changes made as a result of public testimony after the March and April meetings, and the Commission directed that staff add language to the definition of PCOCs, that accurately reflected what the statute says.

WAC 230-12-050 prohibits licensees from giving credit, loans, or gifts to any person playing in gambling activities. It sets forth several exceptions to the prohibition regarding gifts. There were no language changes to that from the April meeting.

WAC 230-02-145 as well as 230-20-111, 230-20-125 and 230-20-230 are all up for repeal. All the items in those rules are incorporated in WAC 230-12-045.

WAC 230-40-800 is up for amendment so that it comports with WAC 230-12-045.

WAC 230-40-897 is also up for repeal.

Commissioner McLaughlin clarified this rule applies to the nonprofits and the commercials and increases the amount for promotions from \$50 to \$500. **Mr. Berg** affirmed. **Chair Orr** called for public comment.

Gary Murray, Vice President, Recreational Gaming Association, said that he had been discussing this over the last several months. He said it gets confusing because it's a very complicated issue even for their members. The first issue he addressed was the \$500 value allowed in a promotion. The main argument is the difference between what is in rule and what is a promotion. It costs the player nothing, it adds incentive, and it gives more value to the player. He can do that as long as it is in his rule, and he gets permission from the maker of the game. However, if he only wanted to run the event on Monday, Tuesday and Wednesday, then it becomes a promotion and he cannot do that. **Mr. Murray** said he has a hard time understanding the logic why a promotion is allowed if it's all the time, but not only during certain times when a licensee may need to promote their business. The second issue is the promotional contest of chance (PCOCs). He was unclear how the rule is written -- whether or not it intended to eliminate PCOCs in any involvement in a gambling activity, or just as a part of a promotion in a gambling activity. He requested being able to tell a player that if they get a blackjack, they can give the player an additional entry for consideration under a PCOC that the other people have free method of entry in. It's not a promotion per se; it's part of the gambling activity, and he did not know if the rule was clear on whether that is allowed or not allowed under the current rule. **Mr. Berg** responded that under the proposed rule, the activity that is being described would not be allowed because the extra entry for engaging in the gambling activity, by sitting at the table playing Blackjack would, in effect, be combining a gambling promotion encouraging one to play with a PCOC. The rule is clear, at least in staff's mind, that that would not be allowed.

Mr. Berg clarified that staff's position has been that the licensees always have the opportunity to change the game rules so that the expanded prize would be offered. The game rules can be whatever is approved between them and their manufacturer of the game, and as it passes muster from the Commission. One of the issues is that the reason that is not done is because the odds then go to the player because that extra prize or opportunity to win is present all of the time. Whereas, when it's a promotion, it's only on during the hours that they want it to be on. It's not exactly the same thing as saying we could change our game rules, because they could do that now. **Mr. Fleisher** added that the intent is that a PCOC not be involved with the gambling activity. He thought it might be clearer if they said, "gambling activities shall not be combined in any way with promotional contests of chance" rather than "gambling promotions."

Mr. Murray responded that all they are asking for is to be able to promote a legitimate business. The Legislature has given them the right to have their type of business in the state of Washington; however, they are not allowed to promote it like any other legitimate business in the state of Washington. **Commissioner McLaughlin** asked him if he understood the Commission's job was to control gambling in the state of Washington, which is why he cannot do some things. **Mr. Murray** understood that the statute says to limit the nature and scope of gaming. However, he noted the Legislature authorized social card games—that's the nature and scope of what licensees are allowed to do—play cards, and that is the control. They are allowed to have cards, they can play those games, and they are only allowed to play them, but not give people an opportunity to do more and win more and have a better time. The licensees would just like to give players and frequent customers an added advantage, a better opportunity, and a better time. **Commissioner McLaughlin** responded that from the staff's point of view, is it an added advantage to the player if, say, on slow days they are able to make a promotion. **Mr. Berg** believed that could be argued both ways. Yes, it is an advantage to the player; it's also an advantage to the house to get people in and continue to gamble. The whole idea is to encourage people to come in during the slow time of the business. The other side of that coin is that you also want people who are there to gamble more. It has to do with the whole position on strictly controlling and limiting gambling, and limiting those opportunities.

Mr. Berg offered staff's suggestion for clarity—under WAC 230-12-045, under restrictions #4, Item C, where the first two words are "gambling promotions" staff recommends that between those two words they would insert "activities and related" so the sentence would read: "gambling activities and related promotions shall not be combined." Staff believed that might provide some clarity to the licensees. It does not change the intent. **Commissioner McLaughlin** verified that if someone won in a hand, they couldn't be given an extra entry into the promotional contest of chance. **Mr. Berg** affirmed.

Director Day noted that at the April meeting, **Mr. Ackerman** provided the Commission with a good foundation regarding the public policy—"the public policy in the state of Washington on gambling is to keep the criminal element

out of gambling, and to promote the social welfare of the people by limiting the nature and scope of gambling activities, and by strict regulation and control." The enabling legislation also talks about the social pastime, the level of gambling and Director Day noted that when the industry presents what appears to be conservative rules—like the rule that has the \$500 limit, and like the rules that attempt to clearly define and limit promotional contests of chance—that's the background that they are flowing from. It's the nature of what the Legislature had intended. The key is that in this state, gambling is different from selling groceries; it's different from bowling and restaurants; it's a pervasively regulated industry and that's not by accident—that's the way the Legislature wanted it. Director Day reiterated that is the foundation staff is coming from. He did not want it to be misunderstood that on the slow days the promotions are still there—like the paper with the free ACE that can be used on Tuesday—all which would be permitted. However, with these rules, the Commission would be placing limits and would be requiring a separation between the PCOC, which is in a totally different section of the statute and gambling activities.

Commissioner Niemi wasn't sure that was appropriate. She had no problem with the \$500 limit because it made sense to have definitions that make supervision easier, and to set some guidelines. However, she believed the Commission is straying into something they should think about—in this one area of giving the people that run card rooms more opportunity to decide how to bring people in. She believed the line is very difficult to follow, on slow times—and affirmed it was totally schizophrenic. **Senator Prentice** affirmed the state appears very schizophrenic—when on the one hand we pass a lottery bill, and the purpose of that is to raise revenue, and then for a different reason we allow horse racing, and then IGRA came in. She thought it was appropriate to be confused because the state is schizophrenic and it is not consistent and not logical.

Director Day echoed Mr. Ackerman's advice from last month, noting the Commission has broad policy discretion, and that applies in this matter. The changes are a dramatic liberalization from where the rules presently exist, and they also offer a lot of steps. The Commission is really taken out of the detail of the businesses. There's not the laundry list that existed before. The limit in most areas has increased, and there are some separations required between the PCOC and gambling promotions. Although these rules may not be perfect, Director Day believed they are a dramatic step in the direction of deregulation in many areas. The Commission may choose to reevaluate how they have worked and whether additional changes would be necessary in the future. He encouraged serious consideration to move these rules forward. **Chair Orr** called for further comments from the public.

Don Kaufman, General Managing Director, Big Brothers/Big Sisters in Spokane, noted that one of those minor imperfections is in Item 4 (B). Licensees currently can have a good neighbor game—the person on the right and the left of the big winner maybe gets a \$10 prize of some kind. That could be a stuffed animal, it could be a \$10 coupon to play something else in their hall or it could be \$10 in cash. It can't be \$10 in Pull-tabs. Mr. Kaufman said it would never happen that the only prize being won is \$100 in Pull-tabs because customers generally want cash. "On the other hand, when they didn't truly win the prize, and we're doing something incidental, why can't it be \$10 worth of Pull-tabs—why can't we get them to walk up to our Pull-tab counter and turn in a winner and play the game." The beginning of the rule talks about gambling promotions being discounted coupons to encourage a player to begin or continue to play in a gambling activity. Mr. Kaufman suggested saying something very similar to that in 4 (B) — that an incidental prize or an add-on prize of a value of less than \$10 toward a gambling activity would be allowed. **Commissioner McLaughlin** recalled the comment that in effect, an organization could give away \$10 in lottery tickets, but couldn't give away \$10 in Pull-tabs, which sounded very schizophrenic. She asked for an explanation. Mr. Kaufman responded that was because of a special request. The licensees said, "if we can't do the Pull-tabs, allow us to continue to do the lottery tickets we've always done." Commission staff added language that anything regulated by the Commission, we couldn't do, but anything not regulated by the Commission, could be done. Commissioner McLaughlin said it didn't make any sense. To her, a lottery ticket and a Pull-tab was practically the same thing.

Commissioner Ludwig made a motion seconded by **Alan Parker** to adopt all rules, Items A-H under Item 13 as amended in April and May and as suggested to be amended by Mr. Berg at this meeting under Item 4(C).

Commissioner McLaughlin began to word a motion to amend the motion, but stopped first for assistance in wording it to also allow Pull-tabs. **Ms. Cass-Healy** asked if she intended it just for the nonprofits or for all gambling establishments. Commissioner McLaughlin said it would be for both. Ms. Cass-Healy suggested a proviso that stated that Pull-tabs do not apply in that case. **Mr. Fleisher** asked if she wanted to allow them to give Pull-tabs in a limited amount. **Commissioner McLaughlin** said \$10 in Pull-tabs would be the limit. **Commissioner Ludwig** asked if that

would create any regulatory problems. **Mr. Berg** said it would not.

Don Kaufman suggested that right after "prize" in (B) to add, "that does not exceed \$10 in Pull-tabs." "Promotions shall not consist of schemes in which the prize exceeds \$10 in Pull-tabs." It would be "prize" or "end result." **Mr. Fleisher** thought that would confuse it too much, because it doesn't speak to non-Pull-tab prizes. He suggested a proviso at the end of (B) that said, "provided that a prize may be up to \$10 in Pull-tabs."

Chair Orr called for a second on the crafted motion to amend the motion. There was no second and the Chair declared the motion to amend dead due to a lack of a second. **Chair Orr** called for a vote on the original motion. *Vote taken; the motion carried unanimously.*

RULE UP FOR DISCUSSION AND POSSIBLE FILING

14. Petition for Rule Change from Sherry Gillard – Employees and Owners Showing Poker Hands:

WAC 230-40-610:

Cally Cass-Healy, Assistant Director, reported that the petitioner, Ms. Sherry Gillard, is a licensed card room employee and Poker player. Currently, WAC 230-40-610(6) requires card room owners and on-duty card room employees that are playing in a Poker game with a player-supported jackpot to show their hands at the end of play when the prize is not based upon a pre-determined hand. This requirement prevents an owner or employee from holding a hand to avoid paying out a jackpot, which has occurred on occasion.

Before proceeding, she explained some basic terminology. A Player-supported jackpot is a separate jackpot from the Poker game in which the players can contribute up to \$1 per hand and they can win that separate jackpot based upon some pre-determined rules that the house has set forth. She explained a "bad beat jackpot" which gets split among the players in any combination the house sends forward. **Ms. Cass-Healy** noted this rule was originally put in place to prevent an owner from mucking their hand in order to avoid paying out that jackpot—so there was potential for fraud on the public, which was why it was originally put in place.

Ms. Gillard is petitioning that the owner, or an on-duty card room employee, would not have to show their down cards unless there is a qualifying hand. If there is not a qualifying hand, there's no chance of a bad beat—and that would be the change. **Commissioner Ludwig** asked if Ms. Gillard, the petitioner, was present. Ms. Cass-Healy said she was not. Commissioner Ludwig asked if anyone knew why Ms. Gillard thought this rule would prevent a drop in state revenue, increased unemployment and a need for a state subsidy. Ms. Cass-Healy responded that some of the people that she has spoken to feel that strategy and style in Poker is a very important part of the game, and this would cause an owner to give away his strategy or style, which would hurt the integrity of the game.

Tim Iszley, from the Hideaway Poker Room in Shoreline, emphasized that in Poker, bluffing and strategy has a lot to do with the game, and having to demonstrate your cards and your style of play would be a detriment. **Commissioner McLaughlin** asked if there was any chance for cheating the other players, by actually having the hand that would have made that player-supported jackpot available to them without showing them. Mr. Iszley said that his understanding of the rule is that they would have to show their hand whether they have it or not. The licensees are asking that when it is not possible, to not have to demonstrate their hand. **Ms. Cass-Healy** reported that staff feels, overall, the restriction that the owner or the on-duty card room must show their hands if there is the possibility of a bad beat, is needed. The rule is still being discussed in the rules committee. However, at this point, staff is recommending filing the Petition for further discussion.

Commissioner McLaughlin made a motion seconded by **Commissioner Niemi** to file Item the Petition for Rule Change. *Vote taken; the motion passed unanimously.*

Senator Prentice noted that she attended yesterday's discussion of this issue, and based on what she heard, the elements that make Poker Poker is the bluffing and the mind games that the players play. They don't want that revealed early because then everyone would know the kind of player they've got, and their bluffs. She believed that is the element that makes it Poker, and if the Commission required showing everything too early, people may not see this as a valid game. Although the Petitioner talked about people going to another state, she apparently believed that they would simply

gamble illegally. **Senator Prentice** indicated that if the Poker players believe it would be more fun, and be considered a legitimate game, she thought that they made their case.

15. Other Business/General Discussion/Comments from the Public.

Chair Orr called for public comments. There were none.

16. Adjournment:

With no further business, Chair Orr adjourned the meeting at 11:05 a.m. The next meeting is scheduled for June 13 and 14, 2002, in LaConner.

Minutes submitted by:
Shirley Corbett
Executive Assistant